

CECIL LENNOX ELLIOTT

JULY 20, 1951.—Committed to the Committee of the Whole House and ordered
to be printed

Mr. FELLOWS, from the Committee on the Judiciary, submitted the
following

R E P O R T

[To accompany H. R. 3772]

The Committee on the Judiciary to whom was referred the bill (H. R. 3772) for the relief of Cecil Lennox Elliott, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to preserve for Cecil Lennox Elliott his United States citizenship notwithstanding any period of residence in a foreign state.

GENERAL INFORMATION

The beneficiary of the bill was born in Canada in 1891 and acquired United States citizenship through the naturalization of his father at Cripple Creek, Colo., in 1908. He is married to a native-born citizen of the United States and they have two United States citizen children. He has been employed by the Benguet Consolidated Mining Co. of Manila, Philippine Islands, since 1933. Both he and his wife were interned by the Japanese from 1941 to 1945. The Philippine Islands were granted their independence effective July 4, 1946, and are therefore foreign territory within the meaning of our nationality laws. Unless the beneficiary of the bill returns to the United States prior to July 4, 1951, he will lose his United States citizenship by reason of his continuous residence in the Philippine Islands.

A letter dated May 29, 1951, to the chairman of the Senate Committee on the Judiciary from the Deputy Attorney General with reference to the case reads as follows:

MAY 29, 1951.

Hon. PAT McCARRAN,
*Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.*

MY DEAR SENATOR: This is in response to your request for the views of the Department of Justice relative to the bill (S. 1282) for the relief of Cecil Lennox Elliott.

The bill would provide that Cecil Lennox Elliott shall not be held to have lost United States citizenship under any of the provisions of the Nationality Act of 1940 relating to loss of citizenship by reason of absence from the United States.

The files of the Immigration and Naturalization Service of this Department disclose that Mr. Elliott was born in Quebec, Canada, in August 1891, and that he acquired United States citizenship through the naturalization of his father, Charles Edward Elliott, by the district court of Teller County, at Cripple Creek, Colo., on November 16, 1908. He is presently residing in the Philippine Islands, where he is employed in a supervisory capacity by the Benguet Consolidated Mining Co., of Manila, Philippine Islands. In order for Mr. Elliott to retain his United States citizenship, it will be necessary for him to return to this country before July 4, 1951, inasmuch as section 404 (c) of the Nationality Act of 1940 provides that a person who has become a national by naturalization shall lose his nationality by residing continuously for 5 years in a foreign state, except as provided in section 406 of the act.

According to Mr. Lucien H. Mercier, general counsel for the Benguet Co., Mr. Elliott was married to a native-born United States citizen on May 19, 1919, in Butte, Mont., and they have two children, who are presently residing in the State of Washington. Mr. Mercier stated that Mr. Elliott left the United States for the Philippines in 1933 in order to accept employment with the Benguet Co., that Mr. and Mrs. Elliott were interned by the Japanese in December 1941 and held until about March 1945, that they then returned to the United States to recuperate from the effects of their internment, and that they returned to the Philippines late in 1945 to enable Mr. Elliott to resume his employment with the company. Mr. Mercier, who is also a member of the board of directors of the Benguet Co., further stated that the company is engaged in gold-mining operations at its mines near Baguio, Philippine Islands, and since 1937 has also been engaged in the mining and supplying of chrome-bearing iron ore to United States purchasers. Apparently Mr. Elliott desires to continue his employment in the Philippines, but has no intention of abandoning his United States citizenship, and has made tentative arrangements to return to this country before July 4, 1951, if the instant bill is not enacted in his behalf.

When the Philippine Islands were granted their independence on July 4, 1946, they became an independent, self-governing foreign state. Mr. Elliott's residence in the Philippines for a 5-year period, therefore, would bring him within the purview of section 404 (c) of the Nationality Act of 1940. He is not eligible for the exemption specified in section 406 (b) of the act because the Benguet Consolidated Mining Co. is not an American business organization and does not have its principal office or place of business in the United States, nor is he eligible for any of the other exemptions specified in section 406. The record fails to present considerations, however, which would justify the enactment of special legislation granting him an exemption denied other naturalized citizens similarly situated. Furthermore, the Congress has been reluctant to interfere with the normal functioning of the nationality laws.

Accordingly, this Department is unable to recommend enactment of the measure.

Yours sincerely,

PEYTON FORD,
Deputy Attorney General.

Senator Robert A. Taft, the author of a similar bill introduced in the Senate, has submitted the following information in connection with the case:

WASHINGTON 5, D. C., February 15, 1951.

In re loss of citizenship, naturalized Americans, employed in Philippines.

HON. ROBERT A. TAFT,

United States Senate, Washington 25, D. C.

(Attention James D. Williams, Jr., Esq.)

MY DEAR SIR: In connection with the recent call at your office of Judge John W. Haussermann, the president and general manager of the Benguet Consolidated Mining Co., and myself, as general counsel and member of the board of directors of the company, I should like to submit the following memorandum as requested by your Mr. Williams.

The Benguet Consolidated Mining Co. was organized under the laws of the Philippines in 1903 and has the status, for all purposes, of being a Philippine entity. However, the Benguet Co. has over 11,000 shareholders, and about 94 percent of them are citizens of the United States residing in all of the various States of the United States, with a great number of them concentrated in the State of Ohio.

The Benguet Co. since 1903 has been engaged in gold mining operations at its mines near Baguio, Philippines, and, prewar employed over 10,000 Filipinos thus supplying a direct living for over 60,000 Filipinos. At present, the company employs approximately 6,500 Filipinos, and thus supplies a direct living for over 35,000 Filipinos. This employment is at present the backbone of the economy of the Baguio district of the Philippines.

Since 1937, the Benguet Co. has also been engaged in the mining and supplying to United States purchasers of chrome-bearing iron ore which is used for the making of refractory brick for the lining of blast furnaces. It is about the best ore in the world for that purpose and the company has orders from United States purchasers aggregating over 30,000 tons per month. This ore is on the critical list of the United States war agencies demanding an immediate stockpiling thereof, and a contract is being entered into to supply the United States Government with a minimum of 250,000 tons over the next 24 months for such stockpiling purposes—this will be besides supplying the consumers of the ore in the United States with about 30,000 tons per month.

Because of the situation in the Far East, it has been practically impossible for the Benguet Co. to employ American supervisory help in its mining operations, and the Filipino help procured up to this point, and this will continue for quite some time, is very much below the type of help necessary for the successful operation of the company's mines. The endeavors in the past year to employ Americans to go to the company's mines has met with complete failure—men would accept the position and then, after thinking over the far eastern situation, would decline.

About 2 months ago we lost, by reason of a heart attack, our No. 2 man at the operation, and it has been impossible to replace him. We are now about to lose two more of our top men by reason of section 804 (c) of the Nationality Code of 1940; and should we lose these men, we know, to begin with, that it will be impossible to replace them, and the lack of filling the vacancies might well mean that we shall have to curtail or shut down operations.

In addition to the above, the following letter dated April 27, 1951, to the chairman of the Senate Committee on the Judiciary from the Assistant Secretary of State with reference to the case reads as follows:

APRIL 27, 1951.

The Honorable PAR McCARRAN,
Chairman, Committee on the Judiciary,
United States Senate.

MY DEAR SENATOR McCARRAN: Further reference is made to your letter of April 18, 1951, transmitting, for the comments of the Department of State, a copy of S. 1282, for the relief of Cecil Lennox Elliott.

Mr. Elliott was born at Quebec, Canada on August 22, 1891; emigrated to the United States in 1908; and was naturalized as an American citizen through the naturalization of his father, Charles Edward Elliott, by the district court of Teller County at Cripple Creek, Colo., on November 16, 1908. In 1933, Mr. Elliott traveled to the Philippines, where he has since been employed as technical adviser and mill superintendent by the Benguet Consolidated Mining Co. The Department has been informed that 96 percent of the stock of the Benguet Consolidated Mining Co. is owned by American citizens residing in the United States and that, of the 11,000 shareholders, 94 percent are American citizens. The company is, however, a Philippine company organized under the laws of the Philippines and there is no parent company or directing office in the United States. The company employs approximately 6,500 Filipinos and thus is the source of living for about 35,000 Filipinos. In addition to the benefits accruing to American stockholders in the form of dividends, the company supplies the Government of the United States and other United States purchasers with a certain ore which is much needed in this country.

In view of the special circumstances of Mr. Elliott's case, the Department perceives no objection to his being exempted from the operation of section 404 (c) of the Nationality Act of 1940 through enactment of a private bill. The Department suggests, however, that, since there is no provision in the Nationality Act of 1940 which specifically provides for loss of United States citizenship by reason of absence from the United States, the last clause of S. 1282 be changed to read "providing for loss of citizenship through continuous residence in a foreign state."

Sincerely yours,

JACK K. McFALL,
Assistant Secretary
(For the Secretary of State).

Senator Taft's bill for the relief of the same individual passed the Senate on June 21, 1951.

The committee, after consideration of all the facts in this case, is of the opinion that H. R. 3772 should be enacted and it accordingly recommends that the bill do pass.

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